

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

UNITED STATES OF AMERICA)
)
)
v.) **Criminal No. 5:12-CR-68-MTT**
)
)
STEVEN A. MURRAY)
and)
)
Bio-Tech Management, Inc.)
dba Bio-Tech Systems)
)
Defendants)

**GOVERNMENT'S NOTICE OF INTENT TO OFFER EVIDENCE PURSUANT
TO FEDERAL RULE OF EVIDENCE 404(b)**

The United States, by and through its undersigned counsel, files this notice of intent to offer evidence pursuant to Federal Rule of Evidence 404(b). At trial, during the its case-in-chief, for impeachment and possible rebuttal, the Government will seek to introduce and admit evidence of the following other crimes, wrongs or acts by the defendants Bio-Tech Management, Inc. (Bio-Tech) and company president and owner Steven A. Murray (Murray) that were performed at times relevant to the charges contained within the Indictment:

1. Beginning no later than October 2004, employees of defendant Bio-Tech, with Murray's knowledge and approval, repeatedly applied the registered pesticide Termidor SC (Termidor) in a manner inconsistent with its label, at times and locations other than those charged in the Indictment, in violation of the Federal Insecticide,

Fungicide, Rodenticide Act (FIFRA), 7 U.S.C. 136j, inside nursing homes located throughout Georgia, Alabama, South Carolina, North Carolina, Florida and Tennessee.

2. Beginning no later than October 2005, Bio-Tech employees, at Murray's direction, repeatedly made and used false service reports concealing the unlawful application of the pesticide Termidor inside Georgia nursing homes, other than those instances charged in the Indictment.

3. On or about May 20, 2009 and June 17, 2009, Murray submitted falsified service reports, other than those listed in the Indictment, to a representative of the Georgia Department of Agriculture (GDA) in response to that state agency's request for records in furtherance of an investigation into the misuse of pesticides by Bio-Tech.

4. Beginning no later than June 2004, Bio-Tech employees, at Murray's direction, repeatedly made and used false service reports concealing the unlawful application of the pesticide Termidor inside South Carolina nursing homes.

5. On or about June 12, 2009, Murray submitted falsified service reports to a representative of the South Carolina Department of Pesticide Regulation – Division of Regulatory and Public Service Program (Clemson University) in response to that state agency's request for records in furtherance of an investigation into the misuse of pesticides by Bio-Tech.

6. Beginning no later than October 2004, Bio-Tech employees, at Murray's direction, repeatedly made and used false service reports documenting unlawful application of the registered pesticide Termidor by Bio-Tech employees inside North Carolina nursing homes.

7. On or about June 9, 2009, Murray submitted false service reports to a representative of the North Carolina Department of Agriculture, Structural Pest Control and Pesticides Division, in response to that state agency's request for records in furtherance of an investigation into the misuse of pesticides by Bio-Tech.

8. On or between May 5, 2009 and June 24, 2009, defendant Murray directed Bio-Tech employees to travel to client nursing homes in Georgia, South Carolina and North Carolina and alter company service reports in an effort to conceal the misuse of Termidor.

9. From 2007 to 2009, the restricted use pesticide ZP Tracking Powder was applied in nursing homes located in Georgia, South Carolina, North Carolina and Florida by Bio-Tech employees who were not certified, or under the direct supervision of a certified applicator at the time of application in violation of FIFRA, 7 U.S.C. 136a, and state law.

10. From 2007 to 2009, Bio-Tech employees applied the restricted use pesticide ZP Tracking Powder in a manner inconsistent with its label in nursing homes in Georgia and Alabama in that it was applied to dietary, kitchen, pantry or other food storage areas in violation of FIFRA, 7 U.S.C. 136j, and state law.

11. From 2007 to 2009, Bio-Tech employees used the registered pesticide Demon in a manner inconsistent with its label in nursing homes in Georgia by applying it in areas where food is handled, in violation of FIFRA, 7 U.S.C. 136j, and state law.

12. From 2007 to 2009, Bio-Tech employees used the registered pesticides Demon and Phantom in a manner inconsistent with its label in nursing homes in South

Carolina by applying it in patients' rooms in violation of FIFRA, 7 U.S.C. 136j, and state law.

13. From 2007 to 2009, Bio-Tech employees used the registered pesticides Top Choice (exceeding the application rate) and Cy-Kick CS (in occupied patients' rooms) in a manner inconsistent with its label at nursing homes in Alabama in violation of FIFRA, 7 U.S.C. 136j and state law.

14. From 2007 to 2009, pesticides were applied at Georgia nursing homes by Bio-Tech employees who were not registered technicians as required by state law.

15. From 2007 to 2009, pesticides were applied at Florida nursing homes by Bio-Tech employees who were not licensed in violation of state law.

16. Since 1998, Bio-Tech employees have been performing structural pest control activities in South Carolina without a valid a Commercial Applicator's License in violation of state law.

17. Defendants operated their pest control business in South Carolina (since 1998), North Carolina (since 2004) and Florida (2007), without a valid state Pest Control Business License.

Respectfully submitted,

s/ RICHARD J. POWERS

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CERTIFICATE OF SERVICE

I hereby certify that this day, I caused to be electronically filed the foregoing with the Clerk of the Court using the Electronic Case Filing system (ECF), which served to send notification of this filing to counsel of record.

This the 18th day of February 2014.

s/ *RICHARD J. POWERS*

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